

RENZ D. JENNINGS
CHAIRMAN

MARCIA WEEKS
COMMISSIONER

CARL J. KUNASEK
COMMISSIONER



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JAMES MATTHEWS
EXECUTIVE SECRETARY

TRANSPORTATION COMMISSION

DATE: June 14, 1996

DOCKET NO: U-2499-95-429, U-2499-96-032 and U-3067-96-032

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

G. Robert Frisby dba Beaver Dam Water Company
and Beaver Dame Water Company

(CC&N Extension and Sale of
Assets and Transfer of CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 5:00 p.m. on or before:

June 24, 1996

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

June 25, 1996 and June 26, 1996

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


James Matthews
EXECUTIVE SECRETARY

JM
Enc.
cc: ALL PARTIES

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 RENZ D. JENNINGS
CHAIRMAN
3 MARCIA WEEKS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER

5 IN THE MATTER OF THE APPLICATION OF)
6 G. ROBERT FRISBY DBA BEAVER DAM)
WATER COMPANY FOR AN EXTENSION OF)
7 ITS EXISTING CERTIFICATE OF)
CONVENIENCE AND NECESSITY.)
8 _____)

DOCKET NO. U-2499-95-429

9 IN THE MATTER OF THE APPLICATION OF)
10 G. ROBERT FRISBY DBA BEAVER DAM)
WATER COMPANY AND BEAVER DAM)
WATER COMPANY, AN ARIZONA)
11 CORPORATION, FOR APPROVAL OF THE)
12 SALE OF ASSETS AND TRANSFER OF THE)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY.)
13 _____)

DOCKET NO. U-2499-96-032
DOCKET NO. U-3067-96-032

DECISION NO. _____

OPINION AND ORDER

14 DATE OF HEARING: May 23, 1996

15 PLACE OF HEARING: Phoenix, Arizona

16 PRESIDING OFFICER: Marc E. Stern

17 APPEARANCES: Mr. G. Robert Frisby dba Beaver Dam Water Company;
18 Beaver Dam Water Company, by Mr. G. Robert Frisby, President;
and
19 Ms. Karen E. Nalley, Staff Attorney, Legal Division, on behalf of
20 the Utilities Division of the Arizona Corporation Commission.

21 **BY THE COMMISSION:**

22 On October 11, 1995, Mr. G. Robert Frisby dba Beaver Dam Water Company ("BDWC") filed
23 with the Arizona Corporation Commission ("Commission") an application for the approval of an
24 extension of its existing Certificate of Convenience and Necessity ("Certificate") to provide public water
25 service to an additional 200 acres of land.

26 On January 8, 1996, BDWC filed with the Commission an application for the approval of the
27 transfer of its assets and Certificate from BDWC to Beaver Dam Water Company ("Company"), an
28 Arizona corporation.

1 On April 2, 1996, the Utilities Division ("Staff") of the Commission filed its Staff Report in this
 2 matter requesting consolidation of the above-captioned proceedings for purposes of hearing and
 3 recommending approval of the applications herein.

4 On April 4, 1996, the Commission, by Procedural Order, consolidated the above-captioned
 5 proceedings.

6 Pursuant to a Procedural Order issued by the Commission, the hearing was convened on May 23,
 7 1996, before a duly authorized Hearing Officer of the Commission in Phoenix, Arizona. Mr. G. Robert
 8 Frisby appeared on behalf of BDWC and Company. Staff was represented by counsel. At the conclusion
 9 of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion
 10 and Order to the Commission.

11 * * * * *

12 Having considered the entire record herein and being fully advised in the premises, the
 13 Commission finds, concludes, and orders that:

14 FINDINGS OF FACT

15 1. Pursuant to authority granted by the Commission, BDWC provides water service to
 16 approximately 45 customers in various parts of Mohave County, Arizona, in the vicinity of Littlefield,
 17 Arizona, in what is known as the Arizona strip pursuant to Decision No. 55788 (November 13, 1987).

18 2. On October 11, 1995, Mr. G. Robert Frisby, a sole proprietor, filed with the Commission
 19 an application requesting an extension of his Certificate in order to provide public water utility service
 20 to an additional 200 acres of land which is more fully described in Exhibit "A", attached hereto, and
 21 incorporated by reference.

22 3. On January 8, 1996, BDWC and Company filed an application requesting the
 23 Commission's authorization for the sale and transfer of BDWC's assets and its Certificate to Company.

24 4. Notice of the applications herein was provided in accordance with the law and, in response
 25 thereto, no protests have been received.

26 5. On April 2, 1996, Staff filed its Staff Report recommending approval of the applications
 27 herein following a hearing.

28 ...

Extension Application (Docket No. U-2499-95-429)

6. The area for which BDWC is seeking an extension of its Certificate has a number of owners including the Littlefield School District ("District") who have requested service or will require it in the future.

7. Approximately ten acres was subdivided into forty quarter acre lots in the 1960's which are provided with water service by a non-certificated and substandard system whose owners have requested service.

8. The District plans to develop 30 acres into either a high school or a new elementary school depending upon state funding.

9. A developer, Mr. Jack Young, is planning a 55 lot subdivision and has already entered into a main extension agreement with Mr. Frisby and Mr. Young has received a Certificate of Approval to Construct from the Arizona Department of Environmental Quality.

10. Mr. Frisby is also requesting the Commission's approval of the main extension agreement with Mr. Young.

11. Additionally, there is a dry lot subdivision consisting of 200 lots that Mr. Frisby anticipates will require service in the near future.

12. With the exception of the District's property, the remainder of the acreage will be used for residential purposes.

13. There are no other public service corporations to provide water service in the proposed service area.

14. Staff reviewed the water production and storage capacity of BDWC and believes that there are adequate facilities and capacity to service the requested area and that BDWC is able to provide the water service.

15. According to Staff, BDWC is in compliance with the rules of ADEQ, current on its taxes, and in compliance with the Commission's filing requirements.

16. BDWC will submit copies of any main extension agreements which it enters into for the development of the area described in Exhibit A to the Commission for its approval.

17. Staff believes that there is a public need and necessity for water service in the requested

1 area and that the issuance of a Certificate for the area described in Exhibit A is in the public interest.

2 Sale and Transfer Application Docket Nos. U-2499-96-032 and U-3067-96-032

3 18. On July 28, 1986, a corporation was incorporated in Arizona known as Helio Craft, Inc.,
4 but never capitalized until on or about December 1, 1987 at which time it issued 100,000 shares of its
5 stock to the Bob Frisby Childrens' Trust ("Trust") in return for Mr. Frisby's water utility assets which
6 comprise BDWC.¹

7 19. On January 22, 1988, Helio Craft, Inc. formally changed its name to Company.

8 20. The Trust owns all of the outstanding stock in Company.

9 21. Since Company's inception, Mr. Frisby has been its president and has operated it without
10 formally requesting the Commission's authorization for BDWC's transfer of its assets and Certificate.

11 22. Since receiving its Certificate, BDWC has filed its annual utility reports with the
12 Commission's Staff as Company indicating its corporate status.

13 23. Company will continue to retain the services of an Arizona certified operator to operate
14 its water system.

15 24. BDWC has no outstanding security deposits and has no refund obligations due on any
16 main extension agreements at this time.

17 25. Company will continue to charge the existing rates and charges authorized by the
18 Commission for BDWC in Decision No. 55788 upon the Commission's approval of the applications
19 herein.

20 26. The Mohave County Board of Supervisors has previously granted a franchise to Company
21 for its existing certificated service area and for the area sought to be certificated herein.

22 27. There is a continuing need and necessity for the provision of public water utility service
23 in the certificated service area to be transferred from BDWC to Company.

24 28. Staff has recommended the following: approval of BDWC's application for an extension
25 of its Certificate for the area described in Exhibit A; approval of the application for the sale of BDWC's
26 assets and transfer of its Certificate to Company; approval of the main extension agreement between
27

28 ¹ Mr. Frisby has agreed to file proof that the wellsites are owned by Company after the hearing.

1 BDWC and Mr. Jack Young; and that Company continue to charge those rates and charges as presently
2 authorized in Decision No. 55788 to BDWC's existing customers and to the area sought to be
3 Certificated herein in Exhibit A.

4 29. We find that Staff's recommendations, as set forth in Finding of Fact No. 28 are
5 reasonable.

6 **CONCLUSIONS OF LAW**

7 1. BDWC is a public service corporation within the meaning of Article XV of the Arizona
8 Constitution and A.R.S. §§ 40-281, 40-282, 40-252 and 40-285.

9 2. Company, upon the consummation of the sale of BDWC's assets and transfer of its
10 Certificate, will be a public service corporation within the meaning of Article XV of the Arizona
11 Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

12 3. The Commission has jurisdiction over BDWC and Company and of the subject matter of
13 the applications herein.

14 4. Notice of BDWC's and Company's applications as described hereinabove was given in
15 the manner prescribed by law.

16 5. There is a public need and necessity for water utility service in the proposed service area
17 described in Exhibit A.

18 6. There is a continuing need for the provision of water utility service to the public in
19 BDWC's certificated service area.

20 7. BDWC is a fit and proper entity to receive an extension of its Certificate.

21 8. BDWC's application to extend its Certificate for the area described in Exhibit A should
22 be granted.

23 9. Company is a fit and proper entity to receive the assets and Certificate of BDWC.

24 10. Staff's recommendations at set forth in Finding of Fact No. 28 are reasonable and should
25 adopted.

26 11. Company should continue to charge its existing rates and charges as authorized in
27 Decision No. 55788 in BDWC's certificated service area and in the area described in Exhibit A until
28 further order of the Commission.

ORDER

IT IS THEREFORE ORDERED that the Application of Mr. G. Robert Frisby dba Beaver Dam Water Company for an amendment of his Certificate of Convenience and Necessity for the operation of a water utility in the area more fully described in Exhibit A be, and is hereby, granted.

IT IS FURTHER ORDERED that the Application of Mr. G. Robert Frisby dba Beaver Dam Water Company for approval of the sale of utility assets and the transfer of its Certificate of Convenience and Necessity to Beaver Dam Water Company be, and is hereby, granted.

IT IS FURTHER ORDERED that Beaver Dam Water Company shall, within 90 days of the effective date of this Decision, file proof that Beaver Dam Water Company is the record owner of its well sites.

IT IS FURTHER ORDERED that the line extension with Mr. Jack Young be, and is hereby, approved.

IT IS FURTHER ORDERED that Beaver Dam Water Company shall charge water customers in both the former certificated service area and in the area more fully described in Exhibit A the rates and charges authorized in Decision No. 55788 until further Order of the Commission.

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1 IT IS FURTHER ORDERED that, if Beaver Dam Water Company fails to meet the condition
2 with regard to providing proof of the well site ownership ordered hereinabove, the authorization granted
3 herein shall be null and void without further action by the Arizona Corporation Commission.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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8

9 CHAIRMAN

COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the
11 Arizona Corporation Commission, have hereunto set my hand and caused the
12 official seal of the Commission to be affixed at the Capitol, in the City of
13 Phoenix, this _____ day of _____, 1996.

14 JAMES MATTHEWS
EXECUTIVE SECRETARY

15
16 DISSENT _____
MES/kjh
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SERVICE LIST FOR: G. ROBERT FRISBY DBA BEAVER DAM WATER COMPANY AND
BEAVER DAM WATER COMPANY

DOCKET NOS.: U-2499-95-429, U-2499-96-032 and U-3067-96-032

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EXHIBIT A

Section 32, T. 41 N., R. 15 W., G. & S.R.M., Mohave County, Arizona

S 1/2 SW 1/4

NW 1/4 SW 1/4 excluding NE 1/4 NE 1/4 NE 1/4 NW 1/4 SW 1/4

SW 1/4 SW 1/4 NE 1/4 SW 1/4

W 1/2 SE 1/4 SW 1/4 NE 1/4 SW 1/4

W 1/2 NE 1/4 SW 1/4 NE 1/4 SW 1/4

S 1/2 NW 1/4 SW 1/4 NE 1/4 SW 1/4

NW 1/4 NW 1/4 SW 1/4 NE 1/4 SW 1/4

W 1/2 SW 1/4 NW 1/4 NE 1/4 SW 1/4

SW 1/4 NW 1/4 NW 1/4 NE 1/4 SW 1/4

S 1/2 SW 1/4 SW 1/4 NW 1/4

W 1/2 SW 1/4 SE 1/4 SW 1/4 NW 1/4

NW 1/4 SW 1/4 SW 1/4 NW 1/4

S 1/2 NE 1/4 SW 1/4 SW 1/4 NW 1/4

NW 1/4 NE 1/4 SW 1/4 SW 1/4 NW 1/4

SW 1/4 NW 1/4 SW 1/4 NW 1/4

W 1/2 SE 1/4 NW 1/4 SW 1/4 NW 1/4

Section 33, T. 41 N., R. 15 W., G. & S.R.M., Mohave County, Arizona

S 1/2 S 1/2 NE 1/4 SW 1/4

SE 1/4 SW 1/4